



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,992	07/05/2006	Gerhard Duernberger	TURKP0133US	4254
23908 7590 03/16/2010 RENNER OTTO BOISSELLE & SKLAR, LLP 1621 EUCLID AVENUE NINETEENTH FLOOR CLEVELAND, OH 44115				
EXAMINER FIGUEROA, ADRIANA				
ART UNIT 3633		PAPER NUMBER		
MAIL DATE 03/16/2010		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/596,992

**Applicant(s)**

DUERNBERGER, GERHARD

**Examiner**

ADRIANA FIGUEROA

**Art Unit**

3633

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of Species 3 in the reply filed on 9/30/2009 is acknowledged.

***Specification***

2. The disclosure is objected to because of the following informalities: the body of the disclosure does not include subtitles identifying each section, see MPEP 608.01

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-3, 5, 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Martensson (US 6,647,690).**

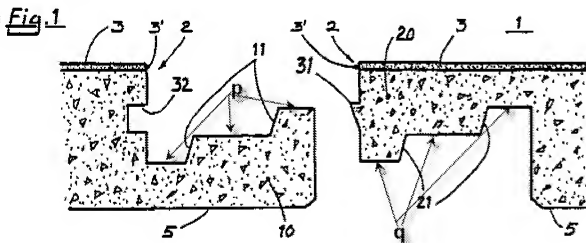
**Regarding claim 1**, Martensson teaches connecting means (p, 11) and (q, 21), made in such a way that they can be connected with each other in a positive fit in two directions (x, y) that are perpendicular relative to each other, and wherein said one (p, 11) and other (q, 21) connecting means have the same geometry, (annotated Fig 1). Examiner would like to note that the limitation “connecting means have the same geometry” is a broad limitation that allows flexibility to the interpretation and is not

limiting to the entire tongue and groove having the same geometry. The interior horizontal lower portion of the groove and the interior horizontal upper portion of the tongue are considered to be the connecting means having the same geometry.

**Regarding claim 3**, Martensson teaches the connecting means (p, 11) and (q, 21), are made so that they can be connected by lowering the one connecting means (q, 21) relative to the other connecting means (p, 11) and then pushing the connecting means towards each other in a direction (x) perpendicular relative to the lowering motion, (annotated Fig 1).

**Regarding claim 5**, Martensson teaches the connecting means (p, 11) and (q, 21), comprising step-shaped or stair-shaped locking means, (annotated Fig 1).

**Regarding claim 7**, Martensson teaches panels (3) with connecting means (p, 11) and (q, 21), provided laterally, which are formed in particular as laminate flooring panels comprising a base board and a decorative layer, (Fig 1), (Col 3, Lines 7-10).



**4. Claims 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Hanning (WO 0102669).**

**Regarding claim 8,** Hanning discloses panels of rectangular shape having lateral connecting elements (47, 48) provided along lateral edges of the panels, which lateral connecting elements (47, 48) are configured to be connected with each other with a positive fit in two directions that are perpendicular relative to each other, (Fig 8) and longitudinal connecting elements (6, 20) provided along longitudinal edges of the panels, which longitudinal connecting elements (6, 20) are configured to be connected with each other by a turning motion, (Fig 3).

**Regarding claim 9,** Hanning discloses the lateral connecting elements (47, 48) have the same geometry, (Fig 8).

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**5. Claims 8, 10-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Hanning (WO 03016654).**

**Regarding claim 8,** Hanning discloses panels (2, 10) of rectangular shape having lateral connecting elements (6, 7) provided along lateral edges of the panels, which lateral connecting elements (6, 7) are configured to be connected with each other with a positive fit in two directions that are perpendicular relative to each other, (Fig 5) and longitudinal connecting elements (4, 5) provided along longitudinal edges of the

panels, which longitudinal connecting elements (4, 5) are configured to be connected with each other by a turning motion, (Fig 2, 3).

**Regarding claim 10**, Hanning discloses the lateral connecting elements (6, 7) are configured so that they can be connected by lowering the one connecting element (6) relative to the other connecting element (7) and then pushing the connecting elements towards each other in a direction perpendicular relative to the lowering motion, (Fig 5). Examiner would like to point out that the free space (17) allows for a horizontal movement of the connecting elements.

**Regarding claims 11 and 12**, Hanning discloses a locking device (13) having a substantially rectangular cross-section insertable into a space between the lateral connecting elements (6, 7) when coupled together to lock the lateral connecting elements against separation (Fig 5),(paragraph 51).

**Regarding claim 13**, Hanning discloses the lateral connecting elements (6, 7) include interior surfaces that are step-shaped, (Fig 5).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**6. Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martensson (US 6,647,690) in view of Pervan (US 2003/0024199).**

**Regarding claim 4,** Martensson discloses wherein two connecting means (p, 11) and (q, 21), are first coupled with each other, but does not disclose the connecting means being interlocked by inserting a separate locking means, wherein the separate locking means preferably is a securing pin having in particular a cross-section that is substantially rectangular. However, Pervan teaches connecting means (8, 12) being interlocked by inserting a separate locking means (52), wherein the separate locking means (52) preferably is considered to be a securing pin capable of having a cross-section that is substantially rectangular, (Fig 14c), (Par 179). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the connecting means of Martensson to include separate locking means as taught by Pervan in order to counteracting changes in the properties of the floor panels caused by moisture.

**Regarding claim 6,** Martensson modified by Pervan discloses as discussed in claim 4. Pervan further discloses connecting means having a separate locking means (52) which can be pushed into a channel formed by the connecting means (8, 12), wherein at least one external dimension of the connecting means is greater than the corresponding internal dimension of the channel, so that the separate locking means can be held in the channel by press fit and the separate locking means consist of a compressible material such as plastics. (Fig 14c), (Par 71, 76).

**7. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanning (WO 03016654) in view of Pervan (US 2003/0024199).**

**Regarding claim 14**, Hanning discloses as discussed in claim 8 including a separate locking device (13) that can be pushed into a channel (14, 15) formed by the lateral connecting elements (6, 7) when coupled together, wherein at least one external dimension of the lateral connecting elements is greater than the corresponding internal dimension of the channel, so that the separate locking device (13) can be held in the channel (14, 15) by press fit, (Fig 5), but does not disclose the separate locking device is made of a compressible material. However, Pervan teaches panels having a locking device (52) made of compressible material such as plastics. (Fig 14c), (Par 71, 76). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the locking device of Hanning to be made of a compressible material as taught by Pervan in order to provide a locking device that would compress and expand providing a tight fit and a sealed joint.

**Regarding claim 15**, Hanning discloses as discussed in claim 8, but does not specifically disclose the panels are formed as laminate flooring panels including a base board and a decorative layer. However, Pervan teaches laminated flooring panels having a decorative layer, (Paragraph 67). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the panels of Hanning to be laminated including a decorative layer as taught by Pervan in order to provide appearance and durability to the floor panels.



***Response to Arguments***

8. Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See form 892.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ADRIANA FIGUEROA whose telephone number is (571)272-8281. The examiner can normally be reached on M-Th 7:30 AM - 6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on (571)272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ADRIANA FIGUEROA/  
Examiner, Art Unit 3633  
3/12/2010

/Brian E. Glessner/  
Primary Examiner, Art Unit 3633